

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2859

Introduced by Assembly Member Gaines

February 22, 2008

An act to amend Sections 4527, 4716, and 4953 of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2859, as amended, Gaines. Public resources: fire prevention and control: forest protection.

(1) Existing law, the Z'berg-Nejedly Forest Practice Act of 1973, is intended to create and maintain an effective and comprehensive system of regulation and use of all timberlands to ensure, among other things, that productivity of timberlands is restored, enhanced, and maintained, where feasible. The act defines timber operations to mean the cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the incidental work, including, but not limited to, construction and maintenance of roads, fuelbreaks, firebreaks, stream crossings, landings, skid trails, and beds for the falling of trees, fire hazard abatement, and site preparation that involves the disturbance of soil or burning of vegetation following timber harvesting activities conducted after a certain date, but excludes preparatory work such as treemarking, surveying, or roadflagging.

This bill would exclude from the definition of timber operations the ~~removal of certain size trees for the purpose of complying with brush~~

~~clearance requirements and removal of certain size trees from firebreaks and fuelbreaks that meet described~~ *specified* criteria, including that the project and ~~project-based~~ *project-based* review; for projects on forested landscapes, be prepared by or in consultation with a registered professional forester.

(2) Existing law requires owners of timber or timberlands to control or eradicate insect pests and plant diseases on lands they own or control. Whenever the Director of Forestry and Fire Protection determines that an area is infested or infected with insect pests or plant diseases injurious to timber or forest growth and the infestation is a menace to adjacent owners' timber or timberland, the director, with approval of the State Board of Forestry and Fire Protection, is authorized to declare a zone of infestation or infection, and the department may go upon state or private lands, within the zone. The department is required to eradicate or control the infestation or infection in a manner approved by the board.

This bill would require the department to eradicate or control the infestation or infection through treatments, including, but not limited to, removing ~~live and dead vegetation, removing soil,~~ restricting access, and implementing of equipment and vehicle sanitation practices. *The bill would authorize the department to remove specified live vegetation and soil within a zone of infestation or infection.*

(3) Existing law creates the California Conservation Camp program to provide for the training and use of inmates and wards assigned to the conservation camps in furtherance of public conservation. The Department of Forestry and Fire Protection is required to use inmates and wards assigned to the conservation camps in performing fire prevention, fire control, and other work of the department. The department is authorized to enter into contracts or cooperative agreements, subject to certain restrictions, with public agencies for the performance of other conservation projects that are appropriate for those public agencies, under policies established by the Prison Industry Authority.

This bill would also authorize the department to enter into the specified contracts or cooperative agreements with *qualified* nonprofit organizations, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4527 of the Public Resources Code is amended to read:

4527. (a) (1) “Timber operations” means the cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the incidental work, including, but not limited to, construction and maintenance of roads, fuelbreaks, firebreaks, stream crossings, landings, skid trails, and beds for the falling of trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988, but excluding preparatory work such as treemarking, surveying, or roadflagging.

(2) “Commercial purposes” includes (A) the cutting or removal of trees that are processed into logs, lumber, or other wood products and offered for sale, barter, exchange, or trade, or (B) the cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber that are subject to Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects.

(b) For purposes of this section, the following do not constitute “timber operations:”

(1) ~~The removal of trees less than 16 inches in diameter at breast height for the purposes of complying with Section 4291.~~

(2) ~~The removal of trees less than 16 inches in diameter at breast height from a firebreak or fuelbreak that does not constitute “timber operations” if the removal meets all of the following criteria:~~

~~(A)~~

~~(1) It is located within 500 feet of the boundary of an urban wildland interface community at high risk of wildfire, as defined on pages 752, et seq. in Number 3 of Volume 66 of the Federal Register for January 4, 2001. seq. of Number 3 of Volume 66 (January 4, 2001) of the Federal Register, as that definition may be amended from time to time. For purposes of this paragraph, “urban wildland interface community at high risk of wildfire” means an area having one or more structures for every five acres.~~

1 ~~(B)~~

2 (2) It is part of a ~~Community Wildfire Protection Plan~~
3 *community wildfire protection plan* approved by the department
4 or part of a department fire plan.

5 ~~(C)~~

6 (3) The trees to be removed will not be processed into logs or
7 lumber.

8 ~~(D)~~

9 (4) The work to be conducted is under a firebreak or fuelbreak
10 project that has been subject to a project-based review *pursuant*
11 *to a negative declaration, mitigated negative declaration, or*
12 *environmental impact report* in compliance with the California
13 Environmental Quality Act (Division 13 (commencing with Section
14 21000)). For projects to be conducted on forested landscapes, as
15 defined in Section 754, the project and the project-based review
16 shall be prepared by or in consultation with a registered
17 professional forester.

18 ~~(3) The removal or harvest of incidental vegetation from~~
19 ~~timberlands, such as berries, ferns, greenery, mistletoe, herbs, and~~
20 ~~other products, where the action cannot normally be expected to~~
21 ~~result in a threat to forest, air, water, or soil resources.~~

22 (5) *The removal of surface and ladder fuels is consistent with*
23 *paragraph (9) of subdivision (k) of Section 4584.*

24 SEC. 2. Section 4716 of the Public Resources Code is amended
25 to read:

26 4716. (a) Whenever the director determines that there exists
27 an area that is infested or infected with insect pests or plant diseases
28 injurious to timber or forest growth and that the infestation or
29 infection is of such a character as to be a menace to the timber or
30 timberlands of adjacent owners, the director, with the approval of
31 the board, may declare the existence of a zone of infestation or
32 infection, and describe and fix its boundaries.

33 (b) If the director declares the existence of a zone of infestation
34 or infection pursuant to subdivision (a), the department or its agents
35 may go upon state and private lands within the zone of infestation
36 or infection and shall cause the infestation or infection to be
37 eradicated or controlled through treatments, including, but not
38 limited to, ~~removing live and dead vegetation, removing of soil,~~
39 *dead vegetation*, restricting access, and implementing of equipment
40 and vehicle practices in a manner that is approved by the board.

1 (c) *Within a zone of infestation or infection, the department may*
2 *remove the following:*

3 (1) *Live vegetation that is directly adjacent to dead or dying*
4 *vegetation and substantially at risk of infestation or infection.*

5 (2) *Soil that harbors or could reasonably harbor insects or*
6 *pathogens that are injurious to timber or forest growth and that*
7 *have the potential to facilitate the spread of insects or pathogens*
8 *to live trees or substantially increase the risk of subsequent*
9 *infestations or infections.*

10 SEC. 3. Section 4953 of the Public Resources Code is amended
11 to read:

12 4953. (a) The department shall utilize inmates and wards
13 assigned to conservation camps in performing fire prevention, fire
14 control, and other work of the department. At times it deems proper
15 and on terms it deems wise, the department may enter into contracts
16 or cooperative agreements with a public agency, local, state, or
17 federal, or with a ~~nonprofit organization~~ *qualified nonprofit*
18 *organization, as determined by the department*, for the performance
19 of other conservation projects that are appropriate for those public
20 agencies or a nonprofit organization under policies that shall be
21 established by the Prison Industry Authority. The charge for the
22 service shall be determined by the director. All these contracts are
23 subject to the approval of the director and the Director of General
24 Services.

25 (b) For the purposes of this section, “nonprofit organization”
26 means any California corporation organized under Section
27 501(c)(3), 501(c)(4), or 501(c)(5) of the federal Internal Revenue
28 Code.